

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 5319 of 1997

to

FIRST APPEAL No 5320 of 1997

with

CIVIL APPLICATION NO. 12192 OF 1997

AND

CIVIL APPLICATION NO. 12193 OF 1997

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA

and

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

GSRTC

Versus

GOPALBHAI HARIBHAI

Appearance:

MR HARDIK C RAWAL for Petitioner

MR HD VASAVADA for Respondent No. 1

NOTICE SERVED for Respondent No. 2

CORAM : MR.JUSTICE D.C.SRIVASTAVA

and

MR.JUSTICE H.K.RATHOD

Date of decision: 31/07/2000

ORAL JUDGEMENT

[Per : D.C.Srivastava,J.]

These two appeals can be disposed of finally at the admission stage in view of the consent given by the learned advocate for the parties for final disposal at this stage. Shri Vasavada appears in response to the notice in these two appeals.

Shri Hardik C.Raval learned counsel for the appellant and Shri Vasavada learned counsel for the respondents have been heard.

The tribunal in its award dated 30th September, 1997 disposed of two claim petition nos. 72 of 1987 and 73 of 1987 by common judgment. Both the petitions were partly allowed. In claim petition no. 72 of 1987, compensation of Rs. 53,000/- together with interest at the rate of 15% per annum from the date of the application till realization was granted with no order as to costs. Claim petition No. 73 of 1987 was partly allowed and compensation of Rs. 61000/- together with interest at the rate of 15% per annum from the date of the application till realization was likewise granted with no order as to costs.

We have examined the award rendered by the tribunal and heard the learned counsel for the appellant and the respondents. SO far as the factual controversy is concerned, there is not much dispute. The finding of the tribunal that the two injured sustained injuries due to rash and negligent driving of the ST Bus driver opponent no.2 was based upon proper appreciation of the evidence on record. The finding on the point of negligence recorded by the tribunal does not require any interference.

So far as the quantum of compensation is concerned, we have examined the findings of the tribunal in claim petition no. 72 of 1987. Medical certificate shows that the injured received permanent partial disablement to a particular limb to the extent of 20% and this partial disablement with reference to the whole body was 10%. Looking to this medical evidence, in our opinion,

compensation of Rs.53,000/- is slightly on the higher side. In our opinion, the compensation of Rs. 48,000/in this claim petition, looking to the disability,shall meet ends of justice.

Likewise, in claim petition no. 73 of 1987, according to Dr. Doshi, permanent partial disablement as assessed with reference to the particular limb was 25% but with reference to the whole body, it was 12.5%. On the nature of this partial disablement, the tribunal awarded compensation of Rs.61,000/- which, to our mind is again slightly excessive. In our opinion, ends of justice will be met if this compensation is reduced by sum of Rs.7000/meaning thereby the compensation will be Rs.54,000/-. The interest awarded by the tribunal in these claim petitions does not require any interference. The directions for disbursement of the amount given by the tribunal also does not require any interference.

The two appeals are, therefore, allowed. In claim petition no. 72 of 1987, the compensation of Rs. 53,000/awarded by the tribunal shall be read as compensation amounting to Rs.48000/- with interest at the rate of 15% per annum from the date of the application till realization. Likewise, in claim petition no. 73 of 1987, the compensation of Rs. 61,000/- mentioned in the award shall be read as compensation amounting to Rs.54,000/- with interest at the rate of 15% per annum from the date of the application till realization. Other directions of the tribunal shall remain intact.

With the above modification, these two appeals succeed in part and are partly allowed with no order as to costs.

Since the first appeals have been partly allowed, no orders are needed in the civil application which is rejected as infructuous.

31.7.2000. (D.C.Srivastava,J.)

(H.K. Rathod,J.)

Vyas